

MaryAnn,

The Holderness Conservation Commission met today. One of the items on our agenda was our response to the proposed changes in the wetlands regulations. Unfortunately, no one on the commission was able to attend the meeting of conservation commissions held on Tuesday the 9th of January, but we did receive from Barbara Richter a synopsis of the meeting which I attach to this e-mail. The commission supports the recommendations found on the second page of that document. Our commission's philosophy towards wetlands and wetland regulations is as follows:

1. Wetlands are a very important component of our New Hampshire landscapes and provide at no cost many positive outcomes.
2. Therefore, when discussing projects that might reduce the extent of the wetlands, it is better to have too much discussion rather than too little, as once a wetland is lost the positive outcomes are lost.
3. Therefore, when discussing projects that might reduce the extent of the wetland, it is better to take more time than less time. There is no hurry as the outcomes could be negative.
4. Local conservation commission have "boots on the ground" with respect to local projects and can provide knowledge that even trained engineers or scientists from outside the area might not have. Therefore, they shouldn't be excluded from providing input both before submission of proposals and during the process of decision making.
5. Most conservation commission are totally voluntary and do not have the time or expertise to visit on a daily basis the NH DES that lists the PBN decisions. So even though all granted permission are published, transparency is really lacking because of this.

We appreciate the chance to comment on the status of the proposed wetland regulations. Please keep us advised as the process continues to its conclusion.

Sincerely yours,

Larry Spencer, Chair, Holderness Conservation Commission

NH DES and NHACC draft wetland rules Conservation Mtg Tuesday, January 8, 2018

Towns attending:

Alstead, Andover, Barrington, Bow, Bristol, Derry, Dover, Exeter, Fremont, Harrisville, Kingston, Londonderry, Moultonborough, New Market, Stoddard, Warner, Washington, Webster, Wilton.

Conservation Commission Focus Input Meeting Agenda

1) Proposed PBN Process (See slides # 37- 41 linked below).

<https://www.des.nh.gov/organization/divisions/water/wetlands/documents/20181103-nhacc-presentation.pdf>

- ❑ Review Timeline (from 10 to **5 days**);
- ❑ Criteria (See Env-Wt **309.05**)
- ❑ **Project types** (minimum impact projects 500, 600 & 900)
- ❑ PBN Review procedures (Env-Wt **309.08**)
- ❑ PBN Conditions (Env-Wt **309.09**)
- 2) Expedited Review timeline (10 days)
- 3) Pre submission meetings (Env-Wt **311.01(e)**)

See Env-Wt **300 cites in link** below:

<https://www.des.nh.gov/organization/commissioner/legal/rulemaking/documents/env-wt300-ip.pdf>

4) Proposed Legislation (Rene Pelletier)

Barbara Richter from NHACC opened the meeting and thanked everyone for coming. Mary Ann Tilton provided review of rulemaking process and then opened the meeting to discuss concerns about the Permit by Notification process that no longer includes CC review.

DES was looking for specific feedback on the draft rules and asked about specific projects that may be considered as Permit by Notification and asked what projects should be removed from the proposed list.

Reminder: Permit by Notification are minimum impact (>3,000 sq ft) that are not located in a priority resource area and that are not a restoration or enhancement project. Under the current proposed rules; projects 3,000 SF or less across forested wetlands; non-NHB protected, non-exemplary natural communities would qualify for PBN. Agriculture up to *3 acres* of maintenance of existing farms would qualify for PBN (currently handled as an Expedited application); < *50 LF* of stream bank stabilization; and minimum impact water access projects.

DES stated that the majority (99%) of these projects go through without comment from CCs so they felt this was an area where they could be efficient. The proposal would be to process these projects in 5 days. Prior to approval DES would check maps for priority resource areas and NHB data check and WAP to make sure the project qualifies as PBN.

Minor and Major projects would require a standard permit and full CC review. See **attached Chart** showing, LSA, PBN, EXP, and Standards.

Questions and concerns from conservation commissions

The majority of CCs want to remain part of the process even if review is done in a short time frame. Commission want to be notified of PBN so that information is shared, transparent and accurate. Most of the CCs are concerned that requiring the applicant to verify that the project qualifies as PBN is not reasonable. The commissions would like to have the opportunity to review and verify information since often GIS data does not accurately reflect what is on the ground.

Recommendations from conservation commissions include:

Permit-by-Notification application should require a signed statement certifying that conservation commissions have been notified. Commissions can help DES with verification of information to ensure that the applicant has provided accurate information.

Permit-by-Notification should allow for a review time of 10 days, not 5 days. With proper planning 10 days is a reasonable amount of time to expect a permit review, especially for minimum impact projects. Administrative completeness can be provided within 5 days.

DES should remove the following projects from the proposed list of new PBN:

1. Aquatic Vegetation Removal
2. Bank Stabilization
3. Board Walk Construction
4. Residential Access
5. Commercial Access
6. Culvert invert/outlet maintenance

Historically, commissions have provided input to these types of projects and in many cases, have helped to minimize impact on wetlands. Commissions believe these projects warrant a more complete review to ensure they meet the qualifications for minimum impact projects.

Expedited Permits should be reviewed in 30 days, which is still a significant decrease from current 75 days. In addition to the more reasonable time frame, the criteria for review of wildlife pond creation should prohibit impacts to vernal pools, especially expedited process impacts for pond creation.

Pre-application Review Process

The discussion did not fully address the concerns regarding the pre-application process. Generally, it was felt that applicants need more of an incentive to meet with CCs prior to submitting their projects. The current language does not address the process or steps in a pre-application process, nor does it address the issue of site visits and access to the property.

Overall, conservation commissions stressed the importance of working together with DES to protect NH's wetlands. NHACC is willing to help DES with training and guidance documents to ensure conservation commissions are prepared to review applications in a timely manner.

Legislative Review

Rene Pelletier provided an update on proposed legislation that would increase funding for DES. Rep. Judith Spang is sponsoring a bill (LSR #397) that would raise fees for wetland permits. This will be a large increase but Rene stated that the fees have not increased in 11 years and these fees would still be less than other states. This bill would also provide DES the rulemaking authority to set fees according to CPI index. He also mentioned a dock registration fee that would allow docks to be registered for 5 years. DES plans to request funding to establish electronic permits in the General Fund. Rene encouraged commission members to support legislation, attend public hearings and/or send written testimony to representatives.

NHACC will track these bills and provide updates and talking points to our members.

Respectfully submitted,
Barbara Richter, NHACC Executive Director